

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3447

IN THE MATTER OF:

Served January 3, 1990

Application of EASY TRAVEL, INC.,)
for a Certificate of Public)
Convenience and Necessity --)
Charter and Special Operations)

Case No. AP-89-44

By application filed August 31, 1989, and amended September 1 and September 6, 1989, Easy Travel, Inc. (Easy Travel or applicant), seeks a certificate of public convenience and necessity to transport passengers in charter and special operations, together with mail, express, and baggage in the same vehicles as passengers, between points in the Metropolitan District, including related transfers to and from airports, bus stations, and train stations in the Metropolitan District. 1/ The application is restricted in special operations to sightseeing tours, and further restricted in charter and special operations to transportation in vehicles with a manufacturer's designed seating capacity of 15 passengers or less (including the driver).

Pursuant to Order No. 3405, served September 14, 1989, and incorporated herein by reference, a public hearing on this matter was held on October 19, 1989. Three company witnesses and four public witnesses testified on applicant's behalf. Mr. Bill Appell trading as Personal Pace Tours/Tech Tours Washington timely protested the application. Mr. Appell appeared at the hearing but neither cross-examined applicant's witnesses nor testified.

SUMMARY OF EVIDENCE

Ms. Laura Buzeta, Easy Travel's president and general manager, testified that applicant is a newly-formed Virginia corporation created primarily to provide sightseeing tours for visitors to the Metropolitan District. Easy Travel intends to specialize in service to foreign visitors whose first language is Spanish. Under applicant's business plan, the majority of Easy Travel's customers will come from tour operators in the United States and abroad. However, applicant's tours will also be marketed through hotels and to the general public.

Ms. Buzeta was employed for the last four years by City Tours, Inc., a wholesale tour operator headquartered in Rutherford, NJ. As an employee of City Tours, Ms. Buzeta directed tours throughout the United

1/ To the extent this application could be construed to include transportation solely within the Commonwealth of Virginia, it was dismissed by Order No. 3405 pursuant to the Compact, Title II, Article XII, Section 1(b).

States including frequent trips to Washington, DC, where Babel Travel Service, Inc., provided ground transportation for a "city tour" including the monuments, the White House, and the Capitol and a "night tour." During this period Ms. Buzeta was also involved in City Tours' office operations and in certain administrative aspects of tour activities.

Easy Travel intends to conduct two standard tours -- a 4-hour daytime tour (Tour A) covering Washington's major monuments, Arlington National Cemetery, and the White House when available, and a night tour (Tour B) of the illuminated monuments and other "after dark" sites. In addition, Easy Travel would provide specially-designed tours on request. Applicant's tariff refers to such tours as "special services." No two groups requesting special services would be combined. All tours would be conducted by bi-lingual, licensed tour guides.

In response to Order No. 3405, Easy Travel submitted a proposed tariff revised to reflect its amended application and the boundaries of the Metropolitan District. The proposed tariff sets forth two sets of rates, a wholesale rate for service to tour agencies, and a retail rate, for individual tourists or small groups that respond to applicant's advertising or personal referrals. According to Ms. Buzeta the difference in price offered these two sources of passengers results from certain contractual obligations to wholesale tour operators. The wholesale rate for Tour A ranges from \$40 for one person to \$18 each for 6 to 14 persons. ^{2/} The wholesale rate for Tour B ranges from \$46 for one person to \$20 each for 6 to 14 persons. Transfers to or from Washington National Airport or any bus or train station within the Metropolitan District range from \$38 (one person) to \$12 (6 to 14 persons); transfers to or from Washington Dulles International Airport range from \$52 (one person) to \$17 (6 to 14 persons). The rate for special services is \$45 an hour with a three-hour minimum. Rates proposed for the general public are \$25 per person for Tour A, \$20 per person for Tour B, \$30 per person for a transfer to or from Washington National Airport or any train or bus station within the Metropolitan District, and \$52 per person for transfers to or from Washington Dulles International Airport. "Special services" rates are the same as those rates established for tour operators. According to Ms. Buzeta, no commissions would be paid tour brokers. The tariff structure proposed takes account of the fact that, if this application is granted, Easy Travel intends to contract with tour operators to provide service regardless of the number of persons interested in applicant's tour. Although its tariff does not so state, Easy Travel will not offer its tours to the general public for fewer than five passengers.

^{2/} The tariff contains rates for groups of "15-30" and "31/over." Applicant has restricted its application to transportation in vehicles with a manufacturer's designed seating capacity of 15 passengers or less, including the driver. The tariff specifies that such rates apply when a single customer requires Easy Travel's service for groups in excess of 14 persons and uses more than one of Easy Travel's vans (seating 15 passengers or less, including the driver).

Easy Travel has purchased two new 14-passenger vans. The vans are covered by a 60,000-mile warranty, and arrangements have been made for regular weekly maintenance and such additional repairs and service as might be required. The vehicles would be garaged at the maintenance site in Falls Church, VA. Ms. Buzeta is negotiating with a person to train tour guides, and a training and safety program is being designed for drivers. All tour guides and drivers will be licensed as required by local law.

Ms. Buzeta testified that she is knowledgeable regarding the Compact and the Commission's rules and regulations and is fully prepared to comply with them.

Mr. Isauro Buzeta is applicant's vice-president and treasurer. Mr. Buzeta owns 40 percent of Easy Travel's stock and has contributed \$50,000 capital to the company in the form of a shareholder's loan. Mr. Buzeta has more than 20 years experience operating a bus line serving one of the largest copper mines in Chile. His company, Pullman Chile, operates 220 52-passenger coaches. According to Mr. Buzeta, Pullman Chile has not had a major accident in its twenty years of operations. Mr. Buzeta will train Easy Travel's drivers and develop a vehicle safety regime. Mr. Buzeta will draw on Pullman Chile's engineers to assist in this activity.

Mr. Isaac Reitberger, a certified public accountant with offices in Silver Spring, MD, compiled the balance sheet and income statement submitted with the application. Mr. Reitberger testified that the statement is accurate and correct to the best of his knowledge. Easy Travel's statement of financial condition as of August 15, 1989, shows assets of \$10,000, of which \$7,500 are subscriptions receivable, and \$10,000 capital stock. Mr. Reitberger testified that, as of the hearing date, the subscriptions had been received, and a balance sheet as of the hearing date would reflect Mr. Buzeta's loan and \$40,000 fixed assets at cost. For the first twelve months of operations, Easy Travel projects operating income from the proposed service of \$199,560 and operating expenses including taxes and depreciation of \$187,710, resulting in net income of \$11,850, for an operating ratio of 94.06. On cross-examination Mr. Reitberger described certain assumptions and details used in preparing the financial statements. These responses indicate that more than 90 percent of applicant's revenue in the first year is projected to come from sources other than members of the general public. Testimony regarding the projected income statement indicated that all employees would be part-time on an "as-needed" basis with the exception of the officers and a secretary who would be part-time but permanent.

Mr. Estanislao Rojas testified in support of the application. Mr. Rojas is assistant concierge at the Washington Plaza Hotel. In this position Mr. Rojas has an opportunity to advise people who stay at the hotel regarding sightseeing options. According to Mr. Rojas, the Washington Plaza Hotel has many Spanish-speaking guests. The witness has known Ms. Buzeta for about eight years and considers her a

very capable person. Consequently, if this application is granted, Mr. Rojas would recommend Easy Travel's service to Spanish-speaking hotel guests 3/ interested in a sightseeing tour.

Mr. Albert Thomas, owner of City Tours, Inc. (City Tours), testified on its behalf in support of the application. City Tours is a wholesale tour operator with headquarters in Rutherford, NJ. It serves between 35,000 and 40,000 Spanish-speaking tourists each year. City Tours arranges airport transfers, hotel accommodations, and sightseeing transportation, including specialized tours on request, throughout the United States. City Tours requires charter transportation of the type proposed by Easy Travel for about 2,000 persons a year. These persons are comprised of independent travelers, special interest groups, and beneficiaries of incentive travel plans. City Tours selects local tour operators to meet its needs. It formerly used Babel Travel Service, Inc. According to Mr. Thomas, Babel is no longer available, and Mr. Thomas would like to use Easy Travel. Based on his experience with Ms. Buzeta as her employer, he has full confidence in applicant's ability to meet City Tours' needs.

Mr. Alejandro Munoz, owner of Northway Tours International Corporation (Northway), testified on its behalf in support of the application. Northway is a wholesale tour operator specializing in serving Spanish-speaking persons. Approximately 1,200 of Northway's clients visit Washington each year. Between 400 and 600 of those clients require the sightseeing and airport transfer service that Easy Travel proposes. Northway needs a reliable representative in Washington for both Spanish-speaking and English-speaking tourists. The witness has known applicant's president for four years and considers her very reliable and knowledgeable. Consequently, if this application is granted, Northway would use Easy Travel's services.

Ms. Cecilia Bambach, sales manager for Top Tour, Ltd. (Top Tour), a travel agency in Santiago, Chile, testified in support of the application on Top Tour's behalf. Approximately 60 percent of Top Tour's clients (perhaps as many as 2,000 persons) visit the United States each year. For those persons, Washington is one of four principal points of interest. In addition to the usual Washington tourist attractions, Top Tour's clients often require specialized tours to various points in the Metropolitan District. Ms. Bambach works with individual travelers rather than groups. Currently the witness makes tour arrangements through tour wholesalers in Chile. If this application is granted, Ms. Bambach would make arrangements directly with Easy Travel. In addition, Ms. Bambach, who has been a travel agent for 15 years, would publicize Easy Travel's service among other travel agencies and tour companies in Chile.

3/ Gold Line serves the Washington Plaza Hotel; however, its tour is in English only.

DISCUSSION AND CONCLUSIONS

In determining whether to grant a certificate of public convenience and necessity, the Commission looks to the standards enunciated at Title II, Article XII, Section 4(b) of the Compact as follows:

[T]he Commission shall issue a certificate . . . if it finds, after hearing held upon reasonable notice, that the applicant is fit, willing and able to perform such transportation properly and to conform to the provisions of this Act and the rules, regulations, and requirements of the Commission thereunder, and that such transportation is or will be required by the public convenience and necessity

Based on a review of the entire record in this case, the Commission finds applicant fit, willing, and able to provide the proposed service and to conform to the Compact and the Commission's rules and regulations. Applicant's operating officers are experienced in the travel business. Easy Travel has taken delivery of two new 14-passenger vans. Applicant has outlined a maintenance routine for the vehicles and made plans for safety training of tour guides and drivers. All tour guides and drivers will be licensed as required by local law. The evidence indicates that Easy Travel has sufficient assets to commence operations, can reasonably project cash flow from the operations sufficient to maintain them, and has a shareholder willing and able to infuse capital into the corporation if necessary. Easy Travel's president is familiar with the Compact and the Commission's rules and regulations and intends to assure applicant's compliance with them.

In determining whether to grant a certificate of public convenience and necessity, the Commission looks to the standards enunciated in Pan-American Bus Lines Operation (1 MCC 190, 203 [1936]). The Pan-American test consists of three parts:

- (1) Whether the new operation or service will serve a useful public purpose responsive to a public demand or need;
- (2) Whether this purpose can and will be served as well by existing lines or carriers; and
- (3) Whether it can be served by applicant with the new operations or service proposed without endangering or impairing the operations of existing carriers, contrary to the public interest.

Based on the testimony of three public witnesses who testified in support of the application, the Commission finds that Easy Travel has met its burden of proving that its proposed service, with one

exception, will satisfy a useful public purpose responsive to a public need, and that the remaining elements of the Pan-American standard have been met. The sole exception relates to the proposed transportation of mail and express. Inasmuch as there is no evidence of record showing any need for the transportation of mail and express, that portion of the application will be denied.

The four witnesses represented companies that arrange travel for persons visiting the Washington area from other countries -- principally, Spain, Portugal and countries in South America. Each of these witnesses testified that his company intends to use Easy Travel's service on a regular basis. City Tours and Northway presently arrange transportation for approximately 10,000 tourists a year in the Metropolitan District. These persons travel both alone and in groups. The transportation required may extend throughout the Metropolitan District. If this application is granted, City Tours and Northway together would use Easy Travel's service to transport about 2,400 persons between points in the Metropolitan District. Cecilia Bambach, sales manager for Top Tour, a travel agency in Santiago, Chile, would use Easy Travel's service for individual clients traveling to Washington, DC, and would also actively promote applicant's service in Chile.

It would appear that both City Tours and Northway formerly relied on Babel Travel Service, Inc. (now American Coach Lines, Inc., a Virginia corporation [ACL]) and both now believe they need a different local tour operator. ACL was served with notice of this application but did not oppose. 4/ There is no evidence that the operations of existing WMATC carriers will be so negatively affected by a grant of this application as to harm the public interest. 5/

A careful review of Easy Travel's tariff indicates that some clarification is required. Easy Travel's representative testified that applicant will not offer its tour service to fewer than five members of the general public. Easy Travel is hereby directed to amend its tariff to state this condition. In addition, Easy Travel is hereby directed to separate the rate section of its tariff into two parts: one part entitled "special operations" and containing the per capita rates for both wholesale tour operators and the general public for Tours A and B and related per capita transfer rates for airports, bus stations, and train stations, and a second part entitled "charter operations" and containing its hourly charter rates, including those rates proposed for its so called "special services." It is clear on the record that Easy Travel's prearranged tours fit the definition of special operations as contained in Commission Regulation No. 51-07. It is equally clear that

4/ On November 20, 1989, ACL filed a formal complaint making certain allegations which, if true, could challenge applicant's fitness. Given the recent nature of this filing, these allegations have not yet been investigated, and the Commission's findings here are based on the record in this case only.

5/ The sole protestant to this case chose to submit no evidence.

the transportation Easy Travel intends to offer as "special services" its the definition of charter operations as contained in Commission Regulation No. 51-06.

THEREFORE, IT IS ORDERED:

1. That Easy Travel, Inc., is hereby conditionally granted authority, contingent upon timely compliance with the terms of this order, to transport passengers, together with baggage in the same vehicles as passengers, in special operations (sightseeing tours and related transfers) and charter operations between points in the Metropolitan District, restricted to transportation in vehicles with a manufacturer's designed seating capacity of 15 persons or less (including the driver), as more specifically described in the Appendix to this order.

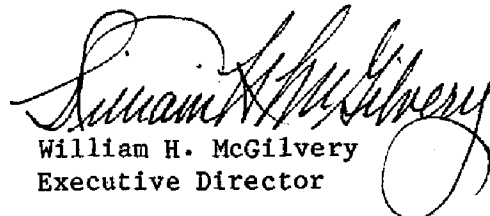
2. That the application, except to the extent granted herein, is denied.

3. That Easy Travel, Inc., is hereby directed to file with the Commission the following: (1) three copies of its WMATC Tariff No. 1 amended as discussed in the body of this order; (2) an equipment list specifying make, model, serial number, vehicle identification number, license plate number (with jurisdiction), and seating capacity for each vehicle to be used in revenue operations; (3) evidence of ownership or a lease in compliance with Commission Regulation No. 69, as appropriate, for each vehicle to be used in revenue operations; (4) a certificate of insurance in accordance with Commission Regulation No. 62 covering each vehicle to be used in revenue operations; and (5) an affidavit of identification of vehicles pursuant to Commission Regulation No. 67 for which purpose WMATC No. 162 is hereby assigned.

4. That unless Easy Travel, Inc., complies with the requirements of the preceding paragraph within 30 days of the service date of this order, or such additional time as the Commission may direct or allow, the grant contained herein shall be void, and the application shall stand denied in its entirety effective upon the expiration of the said compliance time.

5. That upon compliance with the conditions set forth in the preceding paragraphs, a certificate of public convenience and necessity will be issued to Easy Travel, Inc., in the form and as worded in the Appendix to this order.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS WORTHY, SCHIFTER, AND SHANNON:


William H. McGilvery
Executive Director

NO. 162

EASY TRAVEL, INC.

By Order No. 3447, of the Washington Metropolitan Area Transit Commission issued January 3, 1990;

AFTER DUE INVESTIGATION, it appearing that the above-named carrier is entitled to receive authority from this Commission to engage in the transportation of passengers within the Washington Metropolitan Area Transit District as a carrier, for the reasons and subject to the limitations set forth in Order No. 3447;

THEREFORE, IT IS ORDERED that the said carrier is hereby granted this certificate of public convenience and necessity as evidence of the authority of the holder thereof to engage in transportation as a carrier by motor vehicle; subject, however, to such terms, conditions, and limitations as are now, or may hereafter be, attached to the exercise of the privilege granted to the said carrier.

IT IS FURTHER ORDERED that the transportation service to be performed by the said carrier shall be as specified below:

IRREGULAR ROUTES:

PART A

SPECIAL OPERATIONS transporting passengers, together with their baggage in the same vehicles as passengers,

- (1) in round-trip lectured sightseeing tours between points in the Metropolitan District, and
- (2) between airports, bus stations, and train stations located in the Metropolitan District, on the one hand, and, on the other, points in the Metropolitan District, when provided in combination with PART A(1) above.

PART B

CHARTER OPERATIONS transporting passengers, together with their baggage in the same vehicle as passengers, between points in the Metropolitan District.

RESTRICTED IN BOTH PARTS A and B to transportation of passengers in vehicles having a manufacturer's designed seating capacity of 15 persons or less (including the driver) and further restricted in both PARTS A and B against transportation solely within the Commonwealth of Virginia.

AND IT IS FURTHER ORDERED and made a condition of this certificate that the holder thereof shall render reasonable, continuous, and adequate service to the public in pursuance of the authority granted herein, and that failure to do so shall constitute sufficient grounds for suspension, change, or revocation of the certificate.